

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HIGHWAY MATERIALS, INC.,

Plaintiff,

v.

WHITEMARSH TOWNSHIP,
MONTGOMERY COUNTY, PA, et al.,

Defendants.

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CIVIL ACTION NO. 02-3212

ORDER

AND NOW, this day of , 2003, IT IS HEREBY

ORDERED THAT the Motion of Plaintiff Highway Materials, Inc. to Compel Defendant Thomas Zarko to Answer Interrogatories and Produce Documents is GRANTED. IT IS FURTHER ORDERED THAT: (i) Mr. Zarko has waived all objections to the discovery requests; and (ii) within three days of this Order, Mr. Zarko shall produce all responsive documents and answer fully all interrogatories.

Kelly, J.

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**MOTION OF PLAINTIFF HIGHWAY MATERIALS, INC.
TO COMPEL THOMAS ZARKO TO ANSWER
INTERROGATORIES AND PRODUCE DOCUMENTS**

1. On December 16, 2002, Plaintiff Highway Materials, Inc. ("HMI") served document requests on counsel for Defendant Thomas Zarko ("Zarko") by hand delivery.
2. On December 20, 2002, HMI served interrogatories on Zarko's counsel by first-class mail.
3. Zarko's responses to these discovery requests were due January 15, 2003 (document requests) and January 22, 2003 (interrogatories).
4. Zarko did not timely respond to the requests.
5. On January 23, 2003, counsel for HMI wrote counsel for Zarko informing him that the responses were overdue and requesting that responses be served. (See Exhibit A hereto.)
6. Counsel for Zarko called counsel for HMI on or about January 28, 2003 and stated that he and Mr. Zarko were still working on the discovery responses.
7. On January 29, 2003, counsel for HMI wrote counsel for Zarko again, requesting responses no later than February 5, 2003. (See Exhibit B hereto.)
8. Zarko still has not filed any responses to the discovery requests.

WHEREFORE, HMI requests that the Court issue an Order that Zarko has waived any objections to the discovery and that Zarko shall produce all requested documents and fully answer all interrogatories immediately.

Dated: February 11, 2003

Michael Sklaroff
Walter M. Einhorn, Jr.
Arleigh P. Helfer III
Corey Field
I.D. Nos. 03287, 48733, 84427, and 88650
BALLARD SPAHR ANDREWS & INGERSOLL, LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103
(215) 665-8500

Attorneys for Plaintiff
Highway Materials, Inc.

CERTIFICATE OF SERVICE

I, Walter M. Einhorn, Jr., Esquire, hereby certify that on February 11, 2003, I served copies of the foregoing Motion of Plaintiff Highway Materials, Inc. to Compel Defendant Thomas Zarko to Answer Interrogatories and Produce Documents upon the following individuals by facsimile and first-class mail, postage prepaid:

Jonathan K. Hollin, Esquire
Powell Trachtman Logan Carrle Bowman and
Lombardo, P.C.
475 Allendale Road, Suite 200
King of Prussia, PA 19406

Harry G. Mahoney, Esquire
Deasey Mahoney & Bender Ltd.
1800 John F. Kennedy Boulevard, Suite 1300
Philadelphia, PA 19103-2978

Kevan F. Hirsch, Esquire
Kaplin Stewart Meloff Reiter & Stein, P.C.
350 Sentry Parkway, Building 640
Blue Bell, PA 19422

Walter M. Einhorn, Jr.

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**CERTIFICATION PURSUANT TO
LOCAL RULE 26.1(f)**

Pursuant to Local Rule 26.1(f), the undersigned hereby certifies that after reasonable effort, as set forth in the accompanying motion, the parties have been unable to resolve this dispute.

Dated: February 11, 2003

Walter M. Einhorn, Jr.
I.D. No. 48733
BALLARD SPAHR ANDREWS & INGERSOLL, LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103
(215) 665-8500

Attorneys for Plaintiff
Highway Materials, Inc.